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ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Attorneys for Liberty Utilities (Litchfield Park Water and Sewer), Corp.

## BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION  
OF LIBERTY UTILITIES (LITCHFIELD  
PARK WATER AND SEWER), CORP. FOR  
APPROVAL OF AN EXTENSION OF  
THEIR CERTIFICATE OF CONVENIENCE  
AND NECESSITY FOR WATER UTILITY  
SERVICE IN MARICOPA COUNTY,  
ARIZONA.

DOCKET NO. W-01427A-14-0134

IN THE MATTER OF THE APPLICATION  
OF LIBERTY UTILITIES (LITCHFIELD  
PARK WATER AND SEWER), CORP. FOR  
APPROVAL OF AN EXTENSION OF  
THEIR CERTIFICATE OF CONVENIENCE  
AND NECESSITY FOR WASTEWATER  
UTILITY SERVICE IN MARICOPA  
COUNTY, ARIZONA.

DOCKET NO. SW-01428A-14-0180

IN THE MATTER OF THE APPLICATION  
OF VALLEY UTILITIES WATER  
COMPANY, INC. FOR AN EXTENSION OF  
ITS CERTIFICATE OF CONVENIENCE  
AND NECESSITY TO PROVIDE WATER  
UTILITY SERVICE IN MARICOPA  
COUNTY, ARIZONA

DOCKET NO. W-01412A-14-0262

Arizona Corporation Commission

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OCT 17 2014

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CLOSING BRIEF

1 Liberty Utilities (Litchfield Park Water and Sewer) Corp. ("Liberty" or  
2 "Company"), hereby submits this Closing Brief in the above-captioned matter.

### 3 INTRODUCTION

4 This matter involves the extension of water and wastewater utility service to the  
5 Marbella Ranch Subdivision ("Project"), a 365-acre phased development in Maricopa  
6 County that will include approximately 900 single family homes, 360 apartment units and  
7 50 acres of industrial property at full build out. After considerable due diligence, the  
8 developer, TRS 8, LLC ("Developer"), made a formal written request to Liberty to extend  
9 integrated water and wastewater utility service to the Project. Prior to submitting the  
10 written request for service to Liberty, the Developer had also discussed the potential of  
11 extending water service to the Project with representatives of Valley Utilities Water  
12 Company, Inc. ("VUWCO"). After some considerable discussions with both Liberty and  
13 VUWCO representatives, the Developer ultimately chose an integrated water and  
14 wastewater service option with Liberty based on the Developer's determination that Liberty  
15 is the best option for water service to the Project in terms of cost and benefits to the  
16 Developer, homebuyers and future water customers. Commission Staff agrees and  
17 recommends that water and wastewater service be provided to the Project by Liberty.  
18 Despite Developer's wishes and Staff's recommendations, VUWCO has continued to  
19 pursue a competing application to extend its own water Certificate of Convenience and  
20 Necessity ("CC&N") to serve the Project.

21 At hearing, the evidence established that Liberty is a financially viable utility with a  
22 demonstrated ability to extend both water and wastewater service to the Project consistent  
23 with the Arizona Corporation Commission's ("Commission") rules and policy goals. The  
24 record also demonstrates that water service to the Project by Liberty will best serve the  
25 interests of the Developer, homebuyers and future customers. As noted by Commission  
26 Staff, Liberty possesses the written request for water service from Developer, which is an

1 important factor in this proceeding. However, there are other factors that warrant granting  
2 the water CC&N to Liberty over VUWCO, such as lower rates, better overall system  
3 redundancy to provide uninterrupted service, greater access to capital markets for the  
4 benefit of ratepayers, and efficiencies of scale that can be achieved through integrated water  
5 and wastewater service. The evidence is undisputed that those factors strongly favor  
6 Liberty as the wastewater and water provider to the Project. Based on those factors and the  
7 Developer's choice of water provider, Commission Staff has recommended that water  
8 service be provided to the Project by Liberty. On those points, Liberty, the Developer and  
9 Staff agree. The one issue that Liberty and Staff do not agree involves Staff's Amended  
10 Condition No. 5 relating to Staff's recommendation regarding the financing of new water  
11 and wastewater infrastructure to serve the Project.

12       Staff's Amended Recommended Condition No. 5 – that Liberty fund the  
13 infrastructure requirements for the Project with at least 70% equity, and no more than 30%  
14 combined advances in aid of construction (AIAC) and contributions in aid of construction  
15 (CIAC) – is a proposed solution to a problem that does not exist for Liberty. The evidence  
16 demonstrates that Staff's financing proposal requires the Commission to order the  
17 Company to make a substantial investment in infrastructure, without any consideration of  
18 future investment recovery. It is designed to address instances where a utility over-relies on  
19 AIAC and CIAC, resulting in not enough rate base to earn a reasonable return – despite the  
20 fact that Liberty's rate base was valued at roughly \$57 million dollars in its last rate case,  
21 completed earlier this year. Most tellingly, the Commission has never approved a financing  
22 requirement proposal as recommended by Staff. Clearly, these types of capital structure  
23 issues should be decided in a rate case with financial testimony, and not a CC&N  
24 proceeding. The only two issues in a CC&N application are: (i) is there a request and need  
25 for service, and (ii) is the applicant a fit and proper entity with the ability to provide utility  
26 service?

1 Based on the arguments and evidence presented herein, Liberty respectfully requests  
2 that the Commission grant the Company's applications to extend water and wastewater  
3 utility service to the Project, subject to the conditions recommended by Staff, except  
4 Amended Condition No. 5.

## 5 DISCUSSION

### 6 I. LIBERTY HAS THE TECHNICAL, ENGINEERING AND FINANCIAL 7 MEANS TO EXTEND BOTH WATER AND WASTEWATER UTILITY 8 SERVICE TO THE PROJECT, AND SHOULD BE GRANTED THE 9 REQUESTED CC&N EXTENSIONS.

#### 10 A. Wastewater Service.

11 Liberty is an Arizona utility providing wastewater service to approximately 20,500  
12 customers located in unincorporated areas of Maricopa County, Arizona near Litchfield  
13 Park, Goodyear and Avondale.<sup>1</sup> Staff reviewed Liberty's application, and concluded that  
14 the Company is financially fit and able to provide wastewater service. A review of the  
15 engineering plans led Staff to conclude that the proposed system improvements and  
16 estimated costs are reasonable.<sup>2</sup> The Company has adequate treatment capacity to serve its  
17 existing customer base, as well as projected growth from Phase 1 and Phase II of the  
18 Project.<sup>3</sup> Liberty's wastewater system is in compliance with all applicable Commission  
19 orders and rules, the Arizona Department of Water Resources, Maricopa County  
20 Environmental Services Department and the Arizona Department of Environmental  
21 Quality.<sup>4</sup> None of these facts and conclusions were challenged at hearing, and Liberty  
22 submits that granting an extension of the Company's wastewater CC&N to serve the Project  
23 is in the public interest, as requested by the Developer and recommended by Commission  
24 Staff.

25 <sup>1</sup> Staff Report ("SR") at 1.

26 <sup>2</sup> SR, Exhibit A at 10.

<sup>3</sup> SR. at 14.

<sup>4</sup> SR at 11.

1           **B.     Water Service.**

2           While Staff's analysis for the extension of wastewater utility service by the  
3 Company to the Project is based on standard factors given the absence of a competing  
4 provider, Staff's analysis, findings and recommendations regarding the extension of water  
5 utility service are based on additional factors that warrant granting Liberty's request in this  
6 consolidated proceeding. In addition to: (i) being a financially fit entity, (ii) having  
7 reasonable engineering plans and cost estimates for new facilities, (iii) demonstrating an  
8 adequate water supply for existing and future customers, and (iv) regulatory compliance,  
9 the record in this case demonstrates that the provision of integrated water and wastewater  
10 utility service by Liberty for this specific Project<sup>5</sup> will better serve the public interest over a  
11 bifurcated system with VUWCO, based on the following factors:

- 12           • There is a specific written request from the Developer issued to Liberty, and  
13           Developer should be afforded the freedom to choose a utility provider,  
14           subject to Commission approval, in the absence of any strong evidence it  
15           would not serve the public interest;<sup>6</sup>
- 16           • Lower water rates, which has multiple impacts on new homeowners;
- 17           • Avoided costs for homeowners; and
- 18           • Cost savings based on integrated water and wastewater service.

19           These factors clearly demonstrate the public interest is better served by granting  
20 Liberty's water CC&N request over VUWCO, especially given that as Staff points out – the  
21 Developer's choice is an important factor to consider.<sup>7</sup> All thing considered, the weight of

22           <sup>5</sup> Liberty submits that integrated water and wastewater service may not be in the public interest or the preferred option  
23 in every instance. However, the specific facts of this case warrant such a finding.

24           <sup>6</sup> *In the Matter of the Application of Woodruff Water Company, Inc. For a Certificate of Convenience and Necessity to  
Provide water Service in Pinal County, Arizona*; Decision No. 68453 (February 2, 2006) at 29, Ln. 1-2.

25           <sup>7</sup> VUWCO's reference to Decision No. 67277 (October 5, 2004) involves a case with two very small water utilities  
26 competing to serve a new development, where the owner had already been denied a CC&N on the basis that  
encouraging the growth of small water companies is against good public policy and not in the public interest. *See also*  
Decision 66780 (February 13, 2004). In that proceeding, the Commission found that it was in the public interest to

1 the evidence in this proceeding overwhelmingly confirms Staff's conclusion that an  
2 extension of Liberty's water CC&N will best serve the public interest.

3 **1. The Developer Has Chosen Liberty as the Best Option for Water**  
4 **Service to the Project.**

5 When considering its options for water service, the Developer performed due  
6 diligence on both Liberty and VUWCO.<sup>8</sup> Discussions with Liberty were necessary as the  
7 only wastewater provider in the area. However, at no time did Liberty link its extension of  
8 wastewater utility service to being the water provider as well, and the Developer was free to  
9 choose based on what best suited the Project's needs.<sup>9</sup> Clearly, Liberty's position as a  
10 well-capitalized regional provider – with an ability to link the Project to a distribution  
11 system with various sources of water supply – was an important factor in the choice. As  
12 more fully explored below, other factors gave the Developer confidence that a partnership  
13 with Liberty would benefit the Project and future water customers in furtherance of the  
14 public interest as a whole. Absent compelling circumstances that are not present in this  
15 case, the Commission should reject VUWCO's efforts to override the Developer's choice  
16 of water provider for the Project.

17 **2. Lower Water Rates.**

18 Liberty's current monthly base rate for water service is approximately 40% lower  
19 than VUWCO's, and the cost savings only increases by meter size.<sup>10</sup>

<u>Base Rates</u>	<u>Liberty</u>	<u>VUWCO</u>
5/8 x 3/4 meter	\$13.26	\$18.40
3/4 meter	\$13.26	\$27.60

23 encourage the growth and efficient operation of existing utilities. If anything, these two decisions further support  
24 Liberty's position that there is a lack of evidence in this proceeding to overcome the Developer's reasoned and well  
25 calculated choice of provider.

26 <sup>8</sup> Hearing Transcript ("Tr.") at 112-113.

<sup>9</sup> Tr.. at 21, ln. 1-17.

<sup>10</sup> Tr. at 26, ln. 3-11.

1	1" meter	\$29.84	\$46.00
2	<u>Commodity Rates</u>	<u>Liberty</u>	<u>VUWCO</u>
3	First 3,000 gal	\$0.75/gal	\$1.60/gal
4	3,000- 10,000 gal	\$1.95/gal	\$2.88/gal
5	10,000 – 20,000 gal	\$2.95/gal	\$3.80/gal

6 Staff cites this difference as one of the factors in recommending that the Commission  
7 grant Liberty the water CC&N in this proceeding, and to charge new customers existing  
8 rates.<sup>11</sup> This was also a factor considered by the Developer in choosing Liberty over  
9 VUWCO. The Project is designed as an entry level and first-time move up subdivision, and  
10 the difference in total water bills over the course of a year was calculated at approximately  
11 \$300,000 for its residents.<sup>12</sup> The Developer was also sensitive to the cost of water for  
12 homeowner associations (HOA), which generally pass such costs on to their members  
13 through HOA fees.<sup>13</sup> Clearly, the overall impact of lower water rates to the future residents  
14 and commercial business located within the Project will serve the public interest. VUWCO  
15 did not, and could not, refute these points at hearing.

### 16 3. Avoided Costs To Ratepayers With Integrated Service.

17 Liberty and VUWCO currently provide wastewater and water utility service,  
18 respectively, in areas where their existing CC&Ns overlap. While the two companies have  
19 a generally good working relationship, there has been at least once instance where the need  
20 to shut off water service for non-payment of wastewater service has occurred.<sup>14</sup> Generally,  
21 this type of coordination involves an agreement between separate water and wastewater  
22 provider with shared customers, which is approved by the Commission and included in the  
23 companies' tariffs. Unfortunately, no such agreement currently exists between Liberty and

24 <sup>11</sup> SR at 6.

25 <sup>12</sup> Tr. at 113 – 114.

<sup>13</sup> Tr. at 118, ln. 6-14.

26 <sup>14</sup> Tr. at 33, ln. 6-8.

1 VUWCO.<sup>15</sup>

2 If the Developer is required to secure water and wastewater service from VUWCO  
3 and Liberty respectively, a special “shut-off” valve will need to be installed to each  
4 wastewater line serving a home or commercial property. The individual cost for each valve  
5 is roughly between \$250 and \$400, which would then be passed onto the homeowner.<sup>16</sup> By  
6 contrast, Liberty can terminate water service for non-payment of wastewater service, and  
7 could avoid having to physically disconnect a sewer line if providing both water and  
8 wastewater service to an individual customer.

9 **4. Economies of Scale and Benefits Associated with Integrated Service.**

10 In its Report, Commission Staff states that Liberty did not provide any direct  
11 evidence that the provision of integrated service is more efficient than a bifurcated system  
12 as currently exists with Liberty and VUWCO’s current shared customers.<sup>17</sup> Such direct  
13 evidence, however, is not necessary because it stands to reason on the record in this case  
14 that customers will benefit from economies of scale associated with integrated service.  
15 That is especially true here because the Developer prefers integrated service from Liberty  
16 and has concluded that Liberty will best serve its homebuyers and future water and  
17 wastewater customers. Even Commission Staff concedes that the provision of integrated  
18 service is “likely” to be more efficient through combined billing services, centralized  
19 customer service and simultaneous processing of new customers.<sup>18</sup> This general view on  
20 efficiencies was confirmed as actual benefits to future customers within the Project by  
21 Company witness Greg Sorensen at hearing.<sup>19</sup> These efficiencies are translated into a  
22 reduction in overall cost of service expense, on a per customer basis, that has a positive  
23

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24 <sup>15</sup> Tr. at 33, ln.11-15.

25 <sup>16</sup> Tr. at 28, ln. 5-6.

26 <sup>17</sup> SR at 4.

<sup>18</sup> SR. at 5.

<sup>19</sup> Tr. at 65, ln. 8-16.

1 effect on rates. Finally, in providing integrated utility service, Liberty is better suited than  
2 VUWCO to comply with groundwater management requirements by sharing customer  
3 information, recognizing groundwater credits and ensuring reuse permits obtain maximum  
4 value.<sup>20</sup>

5 Liberty is the Developer's choice, based on several benefits that water utility service  
6 by the Company will bring to homebuyers and future customers in the Project. Staff  
7 recommends approval of Liberty's application. Clearly, the evidence in this proceeding  
8 demonstrates that the Commission should grant Liberty the water CC&N extension to serve  
9 the Project.

10 **II. STAFF AMENDED RECOMMENDATION NO. 5 SHOULD BE REJECTED.**

11 Staff Amended Recommendation No. 5 would require Liberty to finance new utility  
12 infrastructure for the Project with at least 70% equity, and no more than 30 percent AIAC  
13 and CIAC combined, subject to Liberty's applicable water and wastewater hook-up fee  
14 tariffs. In making its recommended, Staff cites concerns about (i) a continual over-reliance  
15 on AIAC and CIAC; (ii) that its recommended 30% cap on AIAC and CIAC provides a  
16 better balance of financial risk for the Company and its ratepayers; and (iii) when the  
17 Company over-relies on AIAC and CIAC to fund new infrastructure, it may not have  
18 sufficient rate base to earn a reasonable rate of return.<sup>21</sup> However, these concerns, when  
19 applied to Liberty, are unfounded and not supported by the evidence. In fact, the evidence  
20 at hearing suggests that adopting Staff Amended Recommendation No. 5 will be  
21 detrimental to ratepayers.

22 **A. Staff Provides No Evidence to Support a Claim That Liberty Currently**  
23 **Over-relies on AIAC or CIAC In Funding New Water or Wastewater**  
24 **Facilities.**

25 As of December 31, 2013, Liberty's combined total AIAC and CIAC for its systems

26 <sup>20</sup> SR at 6.

<sup>21</sup> SR at 5.

1 was at 44% (water) and 61% (wastewater) of total plant in service.<sup>22</sup> Staff states that it  
2 “normally” recommends that the combined AIAC and net CIAC funding ratio not exceed  
3 30% of total capital for private, investor-owned utilities.<sup>23</sup> However, it does not provide  
4 any support for this reasoning. When pressed as to whether Staff had ever conducted an  
5 analysis why this capital structure benefits the company and its ratepayers, Mr. Darron  
6 Carlson testified that it was based on “general” sense and some “general” rule applied by  
7 Staff.<sup>24</sup> When further pressed as to whether the Commission shared this general sense as  
8 evidenced by a Commission order requiring a Class A utility like Liberty to limit its AIAC  
9 and CIAC to more than 30% when granting a CC&N, his response was telling. “No. If I  
10 had I would have cited it.”<sup>25</sup> In fact, even the recommendation has not generally appeared  
11 before the Commission in CC&N proceedings.<sup>26</sup> Fundamentally, neither the Commission  
12 nor Commission Staff should make these types of capital structure decisions in a CC&N  
13 proceeding without financial testimony or analysis as to the necessity and impacts of these  
14 requirements on Liberty or its customers. Those issues are better left for review and  
15 determination in a rate proceeding.<sup>27</sup>

16 Despite finding that Liberty is financially fit to provide both water and wastewater  
17 serve to the Project, Commission Staff nonetheless makes its recommendation on capital  
18 structure based on the general sense that when companies over-rely on AIAC and CIAC,  
19 they may not have enough rate base sufficient enough to earn a reasonable rate of return.<sup>28</sup>  
20 While this may be true of smaller companies, a lack of rate base is not generally an issue for

21 <sup>22</sup> SR, Exhibit C at 2.

22 <sup>23</sup> At hearing, Staff provided an alternative to Amended Condition No. 5 that would allow Liberty to select whatever  
23 methodology it chooses for financing, subject to filing an equity plan that would meet 70% equity, 30% AIAC/CIAC  
24 ratio with the Commission by July 31, 2015. This alternative, which no party supports, fails to recognize that Staff has  
25 failed to demonstrate that Liberty’s capital structure puts the Company or its ratepayers at undue financial risk.

26 <sup>24</sup> Tr. at 154 – 155.

27 <sup>25</sup> Tr. at 155, ln. 15.

28 <sup>26</sup> Tr. at 169-170.

<sup>27</sup> Tr. at 48, ln. 7-15.

<sup>28</sup> SR at 4.

1 Class A or Class B utilities, a position with which Mr. Darron Carlson agrees.<sup>29</sup> Indeed,  
2 Liberty's combined rate base is approximately \$57M dollars for ratemaking purposes,  
3 which by all accounts, does not demonstrate a lack of rate base.<sup>30</sup> Mr. Sorensen, who  
4 testified on behalf of Liberty, stated that the Company has never had any issues with regards  
5 to raising capital or making needed investment in utility plant.<sup>31</sup> Staff's recommendation  
6 ignores the reality of Liberty's situation, though Mr. Darron Carlson agrees that Staff's  
7 focus should be on Liberty and the facts in this proceeding – not some other utility with  
8 other considerations or facts that might warrant it.<sup>32</sup>

9 **B. The Evidence In This Case Demonstrates That Liberty's Financial Risk, As**  
10 **Well As Future Rates, Will Increase If Staff's Amended Recommendation No.**  
11 **5. Is Adopted.**

12 Staff claims that requiring the Company to invest at least 70% equity into facilities  
13 needed to serve the Project will provide a better balance of financial risk for Liberty and its  
14 ratepayers.<sup>33</sup> Curiously, Staff also recommends that although the costs estimates for  
15 facilities associated with the Project are reasonable, no "used and useful" determination of  
16 the plant was made, and no conclusions should be inferred for future ratemaking or rate  
17 base purposes.<sup>34</sup> It is difficult to understand how financing needed utility infrastructure in a  
18 manner *ordered* by the Commission, without any guarantee such plant will be allowed into  
19 rate base, actually *improves* financial risk. As a matter of law, if the Commission orders  
20 Liberty to invest capital for construction of facilities needed to serve the Project in this  
21 proceeding, any such investment required by Commission order is, by definition, necessary,  
22 used and useful plant and must be included in rate base. Any contrary decision by the  
23 Commission would result in a taking of utility property. The practical fall out from Staff

24 <sup>29</sup> Tr. at 150, ln. 6-8.

25 <sup>30</sup> Tr. at 47.

26 <sup>31</sup> Tr. at 50 – 51.

<sup>32</sup> Tr. at 153, ln. 24.

<sup>33</sup> SR at 4.

<sup>34</sup> SR, Exhibit C, at 14.

1 Amended Condition No. 5 is that Liberty may be forced to assume development risk, which  
2 either may increase Liberty's risk (i.e. increase the return on equity) or hinder the  
3 Company's access to capital.

4 Mr. Sorensen highlighted this concern, stating that raising capital would be difficult  
5 in a situation where Liberty was ordered to make an investment of at least 70% of the  
6 Project's cost, without any reasonable assurance the Company could earn a return on that  
7 investment.<sup>35</sup> Staff witness Mr. Darron Carlson agreed that Amended Recommendation  
8 No. 5 shifts risk to Liberty, though he was unwilling to speculate what type of ROE  
9 adjustment was necessary to account for such shift.<sup>36</sup> Either way, his testimony contradicts  
10 Staff's conclusion that its proposed capital structure recommendation would improve  
11 financial risk. Mr. Sorensen also was concerned about the potential rate impact the  
12 requirement would have on future rates, since the more equity a company has in rate base,  
13 the more significant the impact.<sup>37</sup> Staff does not seem to share Mr. Sorensen's concerns,  
14 and conducted no analysis as to the future rate impact it would have on Liberty's customers  
15 if the recommendation was adopted.<sup>38</sup>

16 At its core, Amended Condition No. 5 is an attempt to manage the internal business  
17 affairs of Liberty through a CC&N proceeding. This intrusion is against public policy and  
18 contrary to Arizona law. In *Southern Pac. Co. v. Arizona Corp. Comm'n*, 98 Ariz. 339,  
19 343, 404 P.2d 692, 696 (1965), the court held:

20 "...plainly, it is not the purpose of regulatory bodies to manage the affairs of  
21 the corporation. It must never be forgotten that, while the state may regulate  
22 with a view to enforcing reasonable rates and charges, it is not the owner of  
23 the property of public utility companies, and is not clothed with the general  
power of management incident to ownership."

24 <sup>35</sup> Tr. at 49.

25 <sup>36</sup> Tr. at 161.

26 <sup>37</sup> Tr. at 52.

<sup>38</sup> Tr. at 162.

1 In the instant case, Staff witness Darron Carlson argues that the Commission would not be  
2 “ordering” Liberty to extend service to the Project if the CC&N is granted.<sup>39</sup> However, he  
3 goes on to explain the rate-making treatment of the investment - “They [Commission]  
4 would order the Company that if it does the project that it do it in whatever manner it  
5 chooses to inform it and at that point, again, I don’t – I can’t recall the Commission ever  
6 pre-approving a project for inclusion in rate base besides Palo Verde.”<sup>40</sup> This tried and true  
7 method is precisely the opposite of Staff Amended Condition No. 5, because rate-making  
8 treatment of investment is made after the fact, based on what Liberty chooses – not what the  
9 Commission orders in non-rate making docket.

### 10 CONCLUSION

11 Liberty is financially fit to provide both water and wastewater utility services to the  
12 Project. Based on the overwhelming evidence in this case and the benefits to the public  
13 interest, the Commission should grant Liberty the water CC&N to serve the Project.  
14 Furthermore, despite Staff’s concerns about an over-reliance on AIAC and CIAC funding  
15 in general, the specific evidence in this proceeding does not support the conclusion that  
16 Liberty over-relies on AIAC and CIAC, or that its capital structure limits its ability to raise  
17 capital, or make the investments necessary to make infrastructure improvements required to  
18 serve existing or new customers. The Commission should reject Staff’s Amended  
19 Condition No. 5, and the alternative that would require Liberty to file a proposed plan to  
20 meet the 70% equity / 30% combined AIAC and CIAC capital structure recommended by  
21 Staff. To do otherwise would establish a financing requirement never before ordered in a  
22 previous CC&N proceeding, and such a drastic policy change would have an effect on the  
23 entire water and wastewater provider industry in Arizona.

24 Liberty respectfully requests that the Commission adopt the remainder of Staff’s

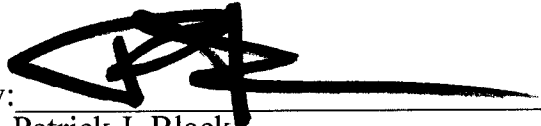
25 <sup>39</sup> Tr. at 161, ln. 12-13.

26 <sup>40</sup> Tr. at 161, ln. 14-18.

1 recommendations and conditions, and grant Liberty both the water and wastewater CC&Ns  
2 to serve the Project in furtherance of the public interest.

3 RESPECTFULLY SUBMITTED, this 17<sup>th</sup> day of October, 2014.

4 FENNEMORE CRAIG, P.C.

5  
6   
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8 Attorneys for Liberty Utilities (Litchfield  
9 Park Water and Sewer) Corp.

10 **ORIGINAL** and 13 copies filed  
11 this 17<sup>th</sup> day of October, 2014 with:

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17 mailed/emailed this 17<sup>th</sup> day of October, 2014, to:

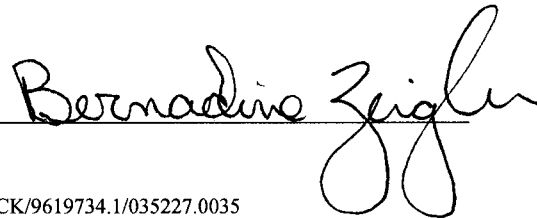
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